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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,436	07/07/2003	Roy Higgs		2612

7590  
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EXAMINER

FAULK, DEVONA E

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/614,436

Applicant(s)

HIGGS, ROY

Examiner

Devona E. Faulk

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2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Remarks***

1. The applicant has cancelled original claims 1-20 and added new claims 21-39.

***Drawings***

2. The drawings are objected to because of line quality. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 21,25,34 and 37** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 21 and 34 recite "a first building section... extends at least one floor higher than said top floor of said parking garage". Claims 25 and 37 recite "a second building section... extends at least one floor higher than said top floor of said parking garage. This is not disclosed in the original disclosure.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 21,25,34 and 37** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 recites "where said screen is located on said top floor such that is substantially faces said first building section". The

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shopping mall or the projector building or even the parking garage structure itself can read on a first building. Additionally claims 21 and 25 recite "wherein the orientation of said screen relative to said first building section helps to shield said screen from bystanders in and around said shopping mall or other complex". The specifications teaches that the orientation of the screen on the parking garage with a projector housing or building located on one end can help to close off the top floor. This can serve to reduce the likelihood that motorists driving along the main street below could view the images projected on the screen (page 9, lines 13-17).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 21-25 and 29** are rejected under 35 U.S.C. 102(b) as being anticipated by Higgs (Extensions to and Refurbishment of Menlyn Park Shopping Centre, Pretoria) (August 2000, see pg. 14 of source code).

Regarding **claim 21**, Higgs discloses a shopping mall or other complex comprising:

at least one multi-level parking garage having a top floor thereon, wherein said parking garage is connected to said shopping mall or other complex (Figure 6);

a drive-in movie theater on said top floor, wherein said theater comprises a screen for projecting moving images thereon (Figure 6); and

a first building section of said shopping mall or other complex, wherein said first building section is located on, adjacent or near said parking garage, and extends at least one floor higher than said top floor said parking garage, wherein said screen is located on said top floor such that it substantially faces said first building section (section across from screen where the movie is being projected from reads on first building section Figure 6),

wherein the orientation of said screen relative to said first building section helps to shield said screen from by-standers in and around said shopping mall or other complex (Figure 6).

Regarding **claim 22**, Higgs discloses wherein said screen is located on a first end of said top floor, and said first building section is located on, adjacent or near a second end of said top floor , opposite said screen (Figure 6).

Regarding **claim 23**, Higgs discloses wherein a projector is located in said first building section, and adapted to project said moving images onto said screen (Figure 6).

Regarding **claim 24**, Higgs discloses wherein a projector is located in said first building section, opposite said screen, and adapted to project said moving images onto said screen (Figure 6).

Regarding **claim 25**, Higgs discloses wherein a second building section (building section along the left side of the parking garage, to the left of the movie screen, Figure 6) is part of and connected to said shopping mall or other complex, wherein said second building section extends at least one floor higher than said top floor of said

parking garage, and extends along the side of said parking garage, from said first end to said second end, wherein the orientation of said screen relative to said second building section helps to shield said screen from by-standers in and around said shopping mall or other complex (Figure 6).

Regarding **claim 29**, Higgs discloses wherein a restaurant and/or other establishment is provided in said first building section, wherein persons in restaurants and/or other establishment can view said screen (area where movie is projected from

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" (August 2000, see pg. 14 of source code).

Regarding **claim 26**, Higgs fails to explicitly teach of wherein said second parking garage is connected to a second portion of said shopping mall or other complex. However, Higg's Figure 6 teaches of a first parking garage connected to a mall. Higgs further teaches of tunnels that are used for pedestrian traffic to various mall

sections (page 4). It would have been obvious to have a second garage connected to the mall as well so that pedestrians can easily access the mall from either parking garage.

11. **Claim 28** is rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs ( Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" (August 2000, see pg. 14 of source code) in view of Herzfeld et al. (U.S. Patent 3,131,351).

Regarding **claim 28** Higgs fails to disclose but Herzfeld discloses wherein a short range radio sound system is provided and adapted for use in connection with said drive-in movie theater. Higgs would obviously have to have a sound system in order for patrons to hear the movie. Herzfeld discloses a discloses a short range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1). It would have been obvious to modify Higgs to have the features of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

12. **Claims 27,30-38** is rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs ( Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" (August 2000, see pg. 14 of source code) in view of Simens (US 6,832,452).

Regarding **claim 27**, Higgs discloses an events center (page 3, column 2). Higgs fails to disclose but Simens teaches of a multi-level parking garage having a second top floor thereon, wherein an events center is located on top of said second parking garage (column 4, line 63-column 5, line 2; Figure 1; Simens teaches of a huge exhibition hall or convention center at levels 7-10 and an elevated football stadium at levels 13-18). It would have been obvious to modify Higgs so that the events center



was on top of a second garage in order to provide a mega-type complex that can accommodate a theater, a convention center, a shopping mall, parking garages, hotels and restaurants, etc. within one location .

12. Regarding **claim 30**, Higgs discloses a shopping mall or other complex comprising:

a first multi-level parking garage having a first top floor thereon, wherein said first parking garage is connected to a first portion of said shopping mall or other complex (Figure 6);

a drive-in movie theater located on said first top floor, wherein said theater comprises a screen for projecting moving images thereon (Figure 6); and

an events center (page 3, column 2).

Higgs fails to disclose but Simens teaches of a multi-level parking garage having a second top floor thereon, wherein an events center is located on top of said second parking garage (column 4, line 63-column 5, line 2; Figure 1; Simens teaches of a huge exhibition hall or convention center at levels 7-10 and an elevated football stadium at levels 13-18).

It would have been obvious to modify Higgs so that the events center was on top of a second garage in order to provide a mega-type complex that can accommodate a theater, a convention center, a shopping mall, parking garages, hotels and restaurants, etc. within one location .

Higgs as modified by Simens fails to explicitly teach of wherein said second parking garage is connected to a second portion of said shopping mall or other

complex. However, Higg's Figure 6 teaches of a first parking garage connected to a mall. Higgs further teaches of tunnels that are used for pedestrian traffic to various mall sections (page 4). It would have been obvious to have a second garage connected to the mall as well so that pedestrians can easily access the mall from either parking garage.

Regarding **claim 31**, Higgs as modified by Simens discloses wherein said first and second portions of said shopping mall or other complex are located between said first and second parking garages (See above apropos rejection of claim 1).

Regarding **claim 32**, Higgs as modified by Simens discloses wherein said events center comprises an outdoor auditorium with stadium type seating (Simens, column 4, lines 66-67; the stadium has a retractable, convertible-type roof).

Regarding **claim 33**, Higgs as modified by Simens discloses wherein a restaurant and/or other establishment is provided in connection with said events center, wherein persons in said restaurant and/or other establishment can view activities taking place in said events center. Higgs teaches or restaurants provided for the theater (Figure 6, page 2). It would be obvious to provide restaurants in connection with the events center in order to provide food and beverages to the patrons of the events center.

Regarding **claim 34**, Higgs as modified by Simens discloses a first building section of said shopping mall or other complex, wherein said first building section is located on, adjacent or near said parking garage, wherein said first building section extends at least one floor higher than said top floor said parking garage, wherein said

screen is located on said top floor such that it substantially faces said first building section ( Higgs, section across from screen where the movie is being projected from reads on building section Figure 6; the screen is substantially facing the mall entrances and the mall).

Regarding **claim 35**, Higgs as modified by Simens discloses wherein said screen is located on a first end of said top floor, and said first building section is located on, adjacent or near a second end of said top floor , opposite said screen (Figure 6).

Regarding **claim 36**, Higgs as modified by Simens discloses wherein a projector is located in said first building section, opposite said screen, and adapted to project said moving images onto said screen (Figure 6).

Regarding **claim 37**, Higgs discloses wherein a second building section (Higgs, building section along the left side of the parking garage, to the left of the movie screen, Figure 6) is part of and connected to said shopping mall or other complex, wherein said second building section extends at least one floor higher than said top floor of said parking garage, wherein said second building section extends along the side of said parking garage, from said first end to said second end, wherein the orientation of said screen relative to said second building section helps to shield said screen from bystanders in and around said shopping mall or other complex (Figure 6).

Regarding **claim 38**, Higgs fails to explicitly teach of wherein said second parking garage is connected to a second portion of said shopping mall or other complex. However, Higg's Figure 6 teaches of a first parking garage connected to a mall. Higgs further teaches of tunnels that are used for pedestrian traffic to various mall

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sections (page 4). It would have been obvious to have a second garage connected to the mall as well so that pedestrians can easily access the mall from either parking garage.

13. **Claim 39** is rejected under 35 U.S.C. 103(a) as being unpatentable over Higgs (Extensions to and refurbishment of Menlyn Park Shopping Centre, Pretoria" (August 2000, see pg. 14 of source code) in view of Simens (US 6,832,452) in further view of Herzfeld et al. (U.S. Patent 3,131,351).

Regarding **claim 39** Higgs as modified by Simens fails to disclose but Herzfeld discloses wherein a short range radio sound system is provided and adapted for use in connection with said drive-in movie theater. Higgs would obviously have to have a sound system in order for patrons to hear the movie. Herzfeld discloses a discloses a short range radio information system (column 4, lines 14-24) and an outdoor theater system (Figure 1). It would have been obvious to modify Higgs to have the features of Herzfeld in order to provide clear perception to all vehicles (column 4, lines 14-22).

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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